

MARYLAND HEALTH CARE COMMISSION

Tuesday, February 14, 2006

Minutes

Chairman Salamon called the meeting to order at 12:40 p.m.

Commissioners present: Conway, Falcone, Krumm, Lucht, Moffit, Moore, Nicolay, Pollak, Risher, Row, Sensabaugh, Todd, Toulson, and Wilensky

ITEM 1.

Approval of the Minutes

Chairman Salamon asked for a motion to approve the Minutes of the January 19, 2006 public meeting, the Minutes of the January 27, 2006 and February 13, 2006 meetings via teleconference on legislative issues.

Commissioner Sharon Krumm made a motion to approve Minutes of the January 19, 2006 meeting, which was seconded by Commissioner Robert Nicolay, and unanimously approved.

Vice Chair Gail Wilensky made a motion to approve the January 27, 2005 Minutes, which was seconded by Commissioner Robert Conway, and unanimously approved.

Commissioner Nevins Todd, Jr. made a motion to approve the February 13, 2006 Minutes, which was seconded by Vice Chair Wilensky and unanimously approved.

ITEM 2.

Before turning to the updates, Dr. Rex Cowdry, Executive Director, announced new responsibilities of staff. He said that David Sharp has been promoted to a deputy level working on the Commission's health IT initiatives and that Susan Panek will be working closely with him, particularly to staff the Task Force on the Electronic Health Records. Dr. Cowdry also announced that Paul Parker has become the Chief of Certificate of Need.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Pamela Barclay, Deputy Director of Health Resources, said that as a follow-up to the December meeting of the Commission, Mercy Medical Center had applied for an interim primary percutaneous coronary intervention (PCI) waiver. Ms. Barclay said that staff recommended the Commission add Mercy Medical Center to the list of hospitals granted an interim primary PCI waiver for the period from January 1 through July 31, 2006. Commissioner Constance Row made a motion to approve the staff recommendation, which was seconded by Commissioner Todd and unanimously approved.

ACTION: Mercy Medical Center's application for an interim primary percutaneous coronary intervention (PCI) waiver is here by APPROVED.

Ben Steffen, Deputy Director for Data Systems and Analysis, said that staff will be notifying assisted living facilities that new survey data is available on the Commission's website and will ask that they review the data collected through the long term care survey and update the fields that can be changed.

ITEM 3.

ACTION: CERTIFICATE OF NEED (CON)

- **CON Modification: Frederick Memorial Hospital: Financing Plan Change, Docket No. 01-10-2077**

Ms. Barclay said that Frederick Memorial Hospital had requested approval for a second modification to its Certificate of Need, issued June 21, 2001, and modified on May 19, 2005. She said that this second project modification involves a change to the financing plan. Ms. Barclay said that the CON approved in June 2001 contained a financing plan that indicated that the hospital was planning to issue \$50.0 million in Maryland Health and Higher Education Facilities authority bonds and contribute \$32.1 million in equity. Under the modified financing plan, the hospital will reduce its equity contribution in order to improve its cash position and increase the amount of funding from the issuance of bonds. For the reasons presented in the report, staff recommended that the Commission approve Frederick Memorial Hospital's modification to its CON. Commissioner Row made a motion that the Commission approve the modification, which was seconded by Commissioner Todd, and unanimously approved by the Commission.

ACTION: CON Modification for Frederick Memorial, Docket No. 01-10-2077 is hereby APPROVED.

- **CON Modification: Lorien LifeCenter – Ellicott City, Docket No. 05-13-2084**

Rhoda Wolfe-Carr, Health Policy Analyst, said that on September 8, 1998, the Commission approved a Certificate of Need application to build a 63-bed comprehensive care facility at Lorien LifeCenter – Ellicott City. She said on January 17, 2002, Lorien received a second CON to relocate the proposed project.

On October 19, 2005, the Commission approved Lorien’s application for a Certificate of Need permitting the approved facility to once again change its Resort Road site to an adjacent site. The new site has been identified as a 6+/- acre site known as “Pod I,” near the intersection of Marriottsville Road and I-70 in Ellicott City, but west of the Little Patuxent River. The 2005 application for a Certificate of Need represented Lorien’s third successive application for virtually the same project initially authorized in 1998, except that this CON application was for 63 CCF beds with a 74-unit assisted living facility, where previously the project’s plans had included 84 assisted living units.

In a letter dated December 23, 2005, Lorien proposed changes in the design of the approved nursing facility. Under this proposal, the 63-bed comprehensive care facility unit would be located in a first-floor wing attached to a three-story assisted living facility, all under the same roof. The current approved design places these beds on the third floor atop the assisted living units in a structure consisting of a basement level and three upper floors. In the proposed modification, the number of nursing stations will remain the same at two, and Lorien reports that there are no additional staffing requirements. Furthermore, Lorien explained that direct care staff of the nursing facility component will not be shared with the assisted living component. Lorien LifeCenter – Ellicott City has assured the Commission that there will be no change in the Performance Requirements in the Certificate of Need that the Commission approved on October 19, 2005.

Staff concluded that the changes proposed by Lorien-Howard, Inc., the sponsor of the Certificate of Need for the Lorien LifeCenter-Ellicott City project, are permissible under Commission regulations at COMAR 10.24.01.17, and they are reasonable. The changes in facility design will allow nursing home residents to have more immediate access to the facility’s grounds. The new design will provide the nursing facility residents with a dedicated Dining Room. Patients with higher acuity medical conditions will be closer to the two nurse stations. For these reasons, Staff recommended that the Commission approve the proposed facility design modifications. Commissioner Krumm made a motion that the Commission approve the Certificate of Need, which was seconded by Commissioner Row, and unanimously approved.

ACTION: Lorien LifeCenter – Ellicott City, CON Modification, Docket No. 05-13-2084, is hereby APPROVED.

- **CON Modification: Upper Chesapeake Medical Center: Project Design Change, Docket No. 04-12-2144**

Paul Parker, Chief, Certificate of Need, said that Upper Chesapeake Medical Center requested a modification of an expansion and renovation project that was previously approved by the Commission in May 2005. He said the proposed modification involved the addition of a fourth floor to the east end building addition. He also said that the construction would be authorized as “shell space”. Upper Chesapeake Medical Center anticipated the space would be finished at some future date as patient rooms. Mr. Parker said that the change to the physical design of the proposed project by the hospital, and the increased cost of the project, is a permissible modification. He said the hospital has demonstrated that recent Department of Defense decisions with respect to military installations in Harford County are likely to result in a substantial increase in the county’s population within a short period of time that was not incorporated into previous projections of population or bed need. Staff recommended that the

Commission approve the requested changes to Upper Chesapeake Medical Center's construction project, and issue a Modified Certificate of Need. Following discussion, Commissioner Debra Herring Risher made a motion to approve the modification, which was seconded by Commissioner Andrew N. Pollak, and unanimously approved by the Commission, with the exception of Commissioner Row, who recused herself from consideration of this matter.

ACTION: Upper Chesapeake Medical Center, Modification of CON, Docket No. 04-12-2144 is hereby APPROVED.

ITEM 4.

ACTION: Final Approval on "Hospital-Based Under and Uncompensated Care Provided by Maryland Physicians"

Ben Steffen, Deputy Director of Data Systems and Analysis, said that HB 627, passed in the 2005 session of the Maryland General Assembly, requires the Maryland Health Care Commission and the Health Services Cost Review Commission to examine causes for and levels of under and uncompensated care for physicians that provide at least 25 percent of care in hospital settings. The law also requires the Commission to examine the feasibility of establishing a fund to finance this care modeled after the Maryland Trauma Physicians Service Fund. Mr. Steffen provided by the Commission with a background on the study as well as how the report was developed. Mr. Steffen also detailed the key findings of the study. Following discussion, Commissioner Row made a motion to approve release of the report, which was seconded by Commissioner Robert Moffit, and unanimously approved.

ACTION: Release of "Hospital-Based Under and Uncompensated Care Provided by Maryland Physicians" is hereby APPROVED.

ITEM 5.

ACTION: Review Pending Legislation

Dr. Cowdry presented a summary of SB 410 "Maryland Universal Health Care Plan." He said that SB 410 would establish a plan that encompasses all Maryland residents, would be governed by a Board, and would replace all forms of insurance; set a global cap on expenditures; forbid deductibles, coinsurance, and copayments; provide for price setting of all medical services by the board; and forbid balance billing. Staff recommended opposing SB 410. Following discussion, Vice Chair Wilensky made a motion that the Commission oppose the bill, which was seconded by Commissioner Pollak, and unanimously approved.

Dr. Cowdry presented a summary of SB 530 "Consumer Health Open Insurance Coverage Act of 2006." He said that SB 530 would establish a Maryland Health Insurance Exchange operated by the Maryland Health Care Commission. The exchange would replace the group and individual market; replace both the Comprehensive Standard and Limited Health Benefit Plans; replace the State Employee Benefit Plan and phase out the Maryland Health Insurance Plan over a three year period. A lengthy discussion ensued. Commissioner Pollak made a motion to adopt the Executive Director's recommendation to support the bill in concept, which was seconded by Commissioner Row, and unanimously approved.

Dr. Cowdry presented a summary of SB 529 “Health Facilities – Certificate of Need – Repeal.” He said that SB 529 abolishes the Maryland Certificate of Need program. He noted that this would allow for unregulated capital spending, new service introduction, and service capacity expansion by the health care facilities and service providers currently regulated by the CON program. Dr. Cowdry said that staff has included two alternatives for this bill: 1) a position paper in outright opposition; and 2) a position paper opposing the bill because the issues have not been adequately analyzed for each sector separately, and alternatives to CON have not been identified. Dr. Cowdry said that staff recommended to oppose and study the certificate of need process. Following discussion, Commissioner Conway made a motion that the Commission oppose SB 529 and study The Certificate of Need program, which was seconded by Commissioner Nicolay, and approved by Commissioners Conway, Falcone, Krumm, Lucht, Moore, Nicolay, Pollak, Risher, Sensabaugh, Todd, Toulson and Vice Chair Wilensky voting in favor, and Commissioners Moffit and Row, voting against, the staff recommendation.

Dr. Cowdry presented a summary of SB 528 “HSCRC – Repeal – Study of Alternative Financing of Uncompensated and Undercompensated Care.” Dr. Cowdry said that SB 528 abolishes the Health Services Cost Review Commission by striking all references to it from Maryland law. He said the staff recommended taking no position on this bill. Commissioner Moffit made a motion to approve the staff recommendation, which was seconded by Commissioner Row, and unanimously approved.

Bruce Kozlowski presented a summary of HB 1121 “Health Insurance Premium Subsidy Program.” Mr. Kozlowski said the HB 1121 would penalize individuals with household incomes above 500% of the Federal Poverty Level who do not obtain health insurance. He said that in 2003, the most recent data published in our reports, the number of non-elderly uninsured in Maryland was 740,000, of whom 16% were in families with incomes above 500% FPL and would be subject to the penalty if they did not obtain insurance. Mr. Kozlowski recommended that the Commission submit a letter of support in principle, with amendments. After a brief discussed, Commissioner Nicolay made a motion to approve the staff recommendation, which was seconded by Commissioner Row, and unanimously approved.

Mr. Kozlowski reviewed the following bills and the Commission concurred without objection.

- HB 176 “Maryland Program Evaluation Act – MHCC and the HSCRC” – staff recommended sending a letter of support, the Commission concurred without objection.
- HB 568 “Office of Minority Health and Health Disparities – Grant Program and Funding” – staff recommended supporting this bill with amendments, the Commission concurred without objection.
- HB 647 “HSCRC – Report on Hospital Charges” – staff recommended supporting this bill, the Commission concurred without objection.
- HB 897 “Health Insurance – Contracts of Carriers with Providers or Hospitals – Prohibited Provisions” – staff recommended supporting this bill, the Commission concurred without objection.
- HB 1342 “Long-Term Care Planning Act of 2006” – staff recommended supporting this bill with amendments, the Commission concurred without objection.
- HB 1440 “Hospital – Open Heart Surgery” – staff recommended opposing this bill, the Commission concurred without objection.

ITEM 6.

Adjournment

There being no further business, the meeting was adjourned at 3:25 p.m., upon motion of Vice Chair Wilensky, which was seconded by Commissioner Pollak, and unanimously approved by the Commissioners.